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FAX COVER SHEET

Please deliver the following pages to:

NAME: **ALLEN FRANK**
Station Manager **WPGH**

FAX NO.: 412- 931- 8177

FROM: **MICHAEL HEALEY**

ATTACHED: NRCC POLITICAL ADS

COMMENT: See attached letter and please direct to legal counsel.

Pages(including cover sheet) 3

Date: August 17, 2012

Client: Mark Critz for Congress Committee

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Michael J. Healey • Joseph S. Hornack • Glen S. Downey • Jules Lobel, OF COUNSEL
 (ADMITTED IN NEW YORK ONLY)

August 17, 2012

Re: Recent False NRCC Advertisement

Dear Station Manager:

I am counsel to the Mark Critz for Congress Committee. I write with regard to an advertisement produced by the National Republican Congressional Committee (NRCC) that has been carried on your station. The text of the advertisement is attached at the end of this letter. I do a great deal of First Amendment work, and understand the broad ranging protections accorded speech and political advertising, but nonetheless, this recent ad is troubling.

This attached advertisement is false and misleading. For the sake of both FCC licensing requirements and the public interest, your station should immediately refuse to continue to air this advertisement. There are parts of this that skirt the line such as, the claim that "Obamacare" amounts to a "government takeover of health care" which was named PolitiFact's 2010 "Lie of the Year."¹ FactCheck.Org rated this allegation among the "biggest falsehoods" of the health care debate.² However, beyond that are the following problems.

The advertisement contains at least two blatant falsehoods:

1. It states that the Patient Protection and Affordable Care Act—popularly referred to as Obamacare—“cut \$700 billion from Medicare.”
2. It states that it could impact the Medicare benefits of 850,000 people in Pennsylvania.

Just four days ago, while reporting on this spurious charge, Bloomberg News wrote: “The 2010 Patient Protection and Affordable Care Act that Obama pushed for **doesn’t cut Medicare.**”³ Just two days ago, CBS News called the attack “**dubious.**”⁴ *The Washington Post* and the independent political fact-checking outlet FactCheck.org has written “time and again” how “**misleading**” the charge is⁵ and PolitiFact has simply written that the claim as “**false.**”⁶

The NRCC also erroneously states that seniors are “at risk of losing some of their benefits.” However, as CBS News reported just three days ago, “it’s not the patients who would lose money. It’s the providers.”⁷ In reality, Patient Protection and Affordable Care Act does not cut \$700 billion from Medicare and puts Medicare on a more solid footing so seniors will not have to worry about their benefits.

¹ Bill Adair and Angie Drobnic Holan, PolitiFact's Lie of the Year: 'A government takeover of health care.' *PolitiFact*, December 16, 2011. [Link](#).

² Lori Robertson, A Final Weekend of Whoppers. *FactCheck.org*, March 19, 2010. [Link](#).

³ Jonathan Salant, Medicare: Truth Behind the 'Cuts.' *Bloomberg News*, August 13, 2012. [Link](#).

⁴ Anthony Mason, Romney's \$716 Billion Medicare Cut Attack is Dubious. *CBS News*, August 15, 2012. [Link](#).

⁵ Glenn Kessler, Fact Checking the GOP debate: \$500 billion in cuts to Medicare? *The Washington Post*, June 15, 2011. [Link](#); Viveca Novak, Misleading Onslaught by 60 Plus. *FactCheck.org*, September 17, 2010. [Link](#).

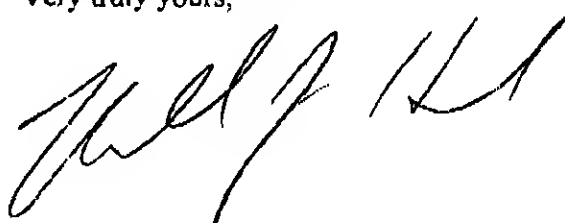
⁶ Angie Drobnic Holan, Did President Barack Obama "steal" \$500 billion from Medicare? *PolitiFact*, September 12, 2011. [Link](#).

⁷ Anthony Mason, Romney's \$716 Billion Medicare Cut Attack is Dubious. *CBS News*, August 15, 2012. [Link](#).

Because you need not air this advertisement, your station bears some responsibility for its content when you do grant access. *See Felix v. Westinghouse Radio Stations*, 186 F.2d 1, 6 (3rd Cir.), cert. denied, 314 U.S. 909 (1950). Moreover, you have a duty "to protect the public from false, misleading or deceptive advertising." *Licensee Responsibility With Respect to the Broadcast of False, Misleading or Deceptive Advertising*, 74 F.C.C.2d 623 (1961). Failure to prevent the airing of "false and misleading advertising" may be "probative of an underlying abdication of licensee responsibility" that can impact a station's license. *Cosmopolitan Broad. Corp. v. FCC*, 581 F.2d 917, 927 (D.C. Cir. 1978).

This advertisement is false, misleading, and deceptive. We ask that you refuse to continue to air this advertisement. Please discuss this issue with your counsel and have him or her contact me. I can be reached at 412-391-1428, or via e mail at mike@unionlawyers.net. Thank you for your attention to this matter.

Very truly yours,



Michael J. Healey

Attorney for Mark Critz for Congress Committee

cc: Mark Critz for Congress Committee

NRCC Advertisement

Narrator: Candidate Critz said he would oppose Obamacare. Congressman Critz voted against repealing it multiple times. Critz joined Nancy Pelosi and the liberals in the government takeover of health care. One of the largest tax increases in history. It also cut \$700 billion from Medicare, putting more than 850,000 Pennsylvania seniors at risk of losing some of their benefits. Mark Critz—clearly he is not on our side. The National Republican Congressional Committee is responsible for the content of this advertisement.